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OFFICE OF PETITIONS

In re Application of
Robert D. Buck et al.
Application No. 60/610,628
Filed: September 15, 2004
Attorney Docket No. INT-CR-202-21PA

ON PETITION

This is a decision on the petition filed June 21, 2005, to revive the above identified application under 37 CFR 1.137(b).¹

The petition is **GRANTED**.

This application became abandoned on January 9, 2005, for failure to file a timely response to the Notice to File Missing Parts "Notice" mailed November 8, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of a Notice of Abandonment.

This matter is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹ A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Office Action Summary	Application No. 09/844,570	Applicant(s) SHTEYN, YEVGENIY EUGENE	
	Examiner Dohm Chankong	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-8 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1> This action is in response to Applicant's amendment and remarks. Claims 1-8 are presented for further examination.

2> This is a final rejection.

Response to Arguments

3> Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

4> Applicant's arguments with respect to claims 7 and 8 have been fully considered but they are not persuasive. Applicant's amendments do not overcome the prior art reference, Hoshen.

Applicant seems to be arguing that the amendment of preventing an end-user from controlling the moving, deletion or modification of content now distinguish the claims over the prior art. Inasmuch as these arguments apply to amended claim 1 and its dependant claims, Examiner agrees and introduces a new grounds of rejection accordingly.

However, amended claims 7 and 8 are not afforded the same limitations; instead, they have been amended to read, in part, a controller for enabling a party, different from any of the end users, remote control of the device for at least one of: moving, deleting or modifying the content. This is not the same as the amendment and argument presented for claim 1 where an end-user is prevented from the performing the specified tasks. Hoshen discloses

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that his management system, interpreted here as a controller, is enabled to delete content located at the STB devices, interpreted as an end-device, by sending delete messages to the STB devices [0085]; in effect, remotely controlling the STB devices.

Thus, the rejections for claims 7 and 8 are maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5> Claims 7 and 8 are rejected under 35 U.S.C § 102(e) as being anticipated by Hoshen et al, U.S Patent No. 2002|0154892 ["Hoshen"].

6> As to claim 7, Hoshen discloses a device for use in a method of enabling multiple end-users to receive content information, wherein:

the method comprises the steps of claim 1 [see the rejection of claim 1 above]; and

the device comprises:

a storage for storing at least part of the content information [0059]; and

a controller for enabling, by a party different from any of the end-users, remote

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control of the device for at least one of: moving the content information between the devices, deleting the content information from one or more of the devices, and modifying the content information as stored at one or more of the devices [0068, 0071, 0085, 0102, 0103 where : Hoshen's management system controls deletion of content information located at the STB devices and the management system is located at a central unit, apart from the end-users and devices. That is, the management system is controlled by the content provider, not the subscribers].

7> As to claim 8, Hoshen discloses a consumer electronics device comprising a storage for storing content information from a network and for supplying the content information to the network, and comprising a control module for enabling remote control, by a party other than an end-user of the device, of at least one of: deleting the content information from the device, and modifying the content information as stored at the device [0059, 0068, 0071, 0085, 0102, 0103].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8> Claims 1-3, 5 and 6 are rejected under 35 U.S.C § 103(a) as being unpatentable over Hoshen, in view of Sutherland et al, U.S Patent Publication No. 2002|0114341 ["Sutherland"].

9> As to claim 1, Hoshen discloses a method of enabling multiple end-users to receive content information, the method comprising:

supplying the content information to a hub [0012 where : Hoshen's central unit is analogous to the claimed hub]; and

using a peer-to-peer network of respective devices residing at respective ones of the end-users and connected to the hub for distributed storage of the content information on the network under control of the hub [0012, 0055].

Hoshen fails to disclose preventing the respective end-users from controlling at least one of: moving, deleting or modifying the content information.

10> Sutherland is directed towards a peer-to-peer storage system with a storage coordinator that enabled to central manage storage resources located at the peers. Sutherland discloses preventing the respective end-users from controlling at least one of: moving the content between the devices, deleting the content from the devices or modifying the content information as stored at the devices [0036, 0088, 0124 where : storage coordinator uses policies to control user file privileges including all aspects of file replication and storage within the peer to peer network]. One benefit of such a system provides central administration and management of distributed storage networks in a manner that is compatible with business environments [see Sutherland, 0013]. Thus it would have been obvious to one of ordinary

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skill in the art to modify Hoshen to include Sutherland's storage coordinator. Sutherland provides a clear improvement over Hoshen's traditional distributed storage system by providing an element that enables the distributed storage to centrally control user privileges towards the stored information.

11> As to claim 2, Hoshen discloses remotely controlling a specific one of the devices for supplying the stored content information to at least another one of the devices [0059, 0064, 0165].

12> As to claim 3, Hoshen discloses supplying an electronic content guide representing the content information available on the network [0065].

13> As to claim 5, Hoshen discloses controlling the devices [0165, 0172, 0173].

14> As to claim 6, Hoshen discloses providing a UI to the end-users for selecting from the content information [0065, 0164].

15> Claim 4 is rejected under 35 U.S.C § 103(a) as being unpatentable over Hoshen and Sutherland, in view of in view of Iwata, U.S Patent No. 6,385,201.

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16> Hoshen does disclose the use of multiple peer networks [Figure 2] but does not specifically disclose the method using a plurality of hubs, each respective one thereof connected to a respective one of a number of peer-to-peer networks.

17> Iwata teaches a method using a plurality of hubs, each respective one thereof connected to a respective one of a number of peer-to-peer networks [Figure 13 and column 1 <line 64> to column 2 <line 13> where: the peer group leader node is equivalent to a hub]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented Iwata's system of peer groups into Hoshen's peer-to-peer file sharing system to more accurately synchronize parameters and information between Hoshen's multiple peer networks as well as establish more efficient routing methods between peer networks [column 2 <lines 41-52>].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

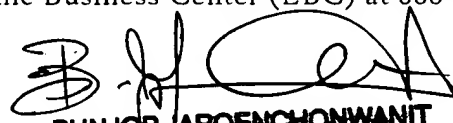
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:00 AM to 5:00 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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PRIMARY EXAMINER

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